

ASSEMBLY BILL

No. 1361

Introduced by Assembly Member Karnette

February 23, 2007

An act to amend Sections 91004 and 91007 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL'S DIGEST

AB 1361, as introduced, Karnette. Political Reform Act of 1974: civil actions.

Under existing provisions of the Political Reform Act of 1974, a person who violates the reporting requirements specified in the act or makes or receives a contribution, gift, or expenditure in violation of specified provisions of the act is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction. Under the act, before filing a civil action, a person is required to first file with the civil prosecutor a written request for the civil prosecutor to commence the action. Under the act, if the civil prosecutor indicates an intent to file a civil action and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought by the requesting person unless the action brought by the civil prosecutor is dismissed without prejudice.

This bill would limit the number of these civil filings that could be made by an individual or group to 10 within the previous 12-month period. The bill would also require that any person requesting that the prosecutor initiate a civil action include an affirmation that a copy of the written request has been provided to the person against whom the action is being sought. This bill would also require a court, in setting the amount of a judgment, to consider any rules or regulations of the

Fair Political Practices Commission for similar violations. The bill would also prohibit a civil action by a requesting person if the commission issues an administrative order or publishes a declaration of no violation.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 91004 of the Government Code is
2 amended to read:

3 91004. Any person who intentionally or negligently violates
4 any of the reporting requirements of this title shall be liable in a
5 civil action brought by the civil prosecutor or by a person residing
6 within the jurisdiction for an amount not more than the amount or
7 value not properly reported. *In setting the amount of a judgment*
8 *under this section, the court shall consider the rules and*
9 *regulations of the Commission applicable to similar violations.*

10 SEC. 2. Section 91007 of the Government Code is amended
11 to read:

12 91007. (a) Any person, before filing a civil action pursuant to
13 Sections 91004 and 91005, must first file with the civil prosecutor
14 a written request for the civil prosecutor to commence the action.
15 The request shall include a statement of the grounds for believing
16 a cause of action exists, *and shall include an affirmation that a*
17 *copy of the written request has been provided to the person or*
18 *persons against whom a cause of action is said to exist. A person,*
19 *or group of persons acting in concert, may file not more than 10*
20 *of these written requests within the previous 12-month period.* The
21 civil prosecutor shall respond to the person in writing, indicating
22 whether he or she intends to file a civil action.

23 (1) If the civil prosecutor responds in the affirmative and files
24 suit, *or the commission issues an order or publishes a declaration*
25 *of no violation pursuant to Section 83116,* within 120 days from
26 receipt of the written request to commence the action, no other

1 action may be brought unless ~~the~~ *an* action brought by the civil
2 prosecutor is dismissed without prejudice as provided for in Section
3 91008.

4 (2) If the civil prosecutor responds in the negative within 120
5 days from receipt of the written request to commence the action,
6 the person requesting the action may proceed to file a civil action
7 upon receipt of the response from the civil prosecutor, *provided*
8 *that the person against whom a cause of action is asserted has*
9 *actually and timely received the notice required in subdivision (a),*
10 *and further provided that the person filing the action, or persons*
11 *acting in concert with that person, has not filed 10 or more written*
12 *requests pursuant to this section within the previous 12-month*
13 *period.* If, pursuant to this subdivision, the civil prosecutor does
14 not respond within 120 days, the civil prosecutor shall be deemed
15 to have provided a negative written response to the person
16 requesting the action on the 120th day and the person shall be
17 deemed to have received that response.

18 (3) The time period within which a civil action shall be
19 commenced, as set forth in Section 91011, shall be tolled from the
20 date of receipt by the civil prosecutor of the written request to
21 either the date that the civil action is dismissed without prejudice
22 or the date of receipt by the person of the negative response from
23 the civil prosecutor, but only for a civil action brought by the
24 person who requested the civil prosecutor to commence the action.

25 (b) Any person filing a complaint, cross-complaint, or other
26 initial pleading in a civil action pursuant to Section 91003, 91004,
27 91005, or 91005.5 shall, within 10 days of filing the complaint,
28 cross-complaint, or initial pleading, serve on the commission a
29 copy of the complaint, cross-complaint, or initial pleading or a
30 notice containing all of the following:

31 (1) The full title and number of the case.

32 (2) The court in which the case is pending.

33 (3) The name and address of the attorney for the person filing
34 the complaint, cross-complaint, or other initial pleading.

35 (4) A statement that the case raises issues under the Political
36 Reform Act of 1974.

37 (c) No complaint, cross-complaint, or other initial pleading shall
38 be dismissed for failure to comply with subdivision (b).

39 SEC. 3. The Legislature finds and declares that this bill furthers
40 the purposes of the Political Reform Act of 1974 within the

- 1 meaning of subdivision (a) of Section 81012 of the Government
- 2 Code.

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